Section 6000
Civil Rights

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A contracting entity (CE) is responsible for ensuring that all persons have equal access to the program. The CE (and day care home providers) cannot discriminate in employment or program participation based on:

- Race;
- Color;
- National Origin;
- Sex;
- Age; or
- Disability.

A CE must strictly adhere to and enforce the provisions of the Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA).

Civil rights laws do allow CEs and day care homes to restrict Program participation based on age or sex commensurate with the objectives of the Program, for example, day care homes can deny the participation of elderly persons, shelters for battered women can deny the participation of men.

**NOTE:** The additional protected classes included in the nondiscrimination statement below apply to other USDA programs and employment activities.


Refer to USDA Food and Nutrition Service (FNS) Instruction 113-1, *Civil Rights Compliance and Enforcement – Nutrition Programs and Activities* for additional information.

**6100  Title VI of the Civil Rights Act of 1964**

**6110  Limited English Proficiency**

CEs and day care home providers that fail to provide services to Limited English Proficiency (LEP) potentially eligible persons, applicants, and participants, or deny them access to the Program and activities, may be discriminating on the basis of national origin.
Title VI of the Civil Rights Act requires CEs and day care home providers to take reasonable steps to assure “meaningful” access to the information and services they provide.

Reasonable steps to ensure meaningful access is contingent on a number of factors, including:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the CE or site;
2. The frequency with which LEP individuals come into contact with the Program;
3. The nature and importance of the program, activity, or service provided by the Program to people’s lives (will the denial or delay of access to the services or information have serious or even life-threatening implications for the LEP individual); and
4. The resources available to the CE or day care home provider and costs.

6120 Public Notification

CEs must:

- Display the official USDA nondiscrimination poster ("...And Justice For All") in a prominent place (individual providers are not required to display this poster);
- Make Program information available to the public upon request;
- Provide information materials related to the Program in languages other than English, if the need exists; and
- Provide the following nondiscrimination statement and complaint-filing procedures in all applications and Program-related information intended for the parents of current and potential participants (see next page):
In English the non-discrimination statement and complaint-filing procedure is:

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html, and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

(1) mail: U.S. Department of Agriculture
    Office of the Assistant Secretary for Civil Rights
    1400 Independence Avenue, SW
    Washington, D.C. 20250-9410;

(2) fax: (202) 690-7442; or

(3) email: program.intake@usda.gov.

This institution is an equal opportunity provider.
In Spanish the non-discrimination statement and complaint-filing procedure is:

De conformidad con la Ley Federal de Derechos Civiles y los reglamentos y políticas de derechos civiles del Departamento de Agricultura de los EE. UU. (USDA, por sus siglas en inglés), se prohíbe que el USDA, sus agencias, oficinas, empleados e instituciones que participan o administren programas del USDA discriminen sobre la base de raza, color, nacionalidad, sexo, discapacidad, edad, o en represalia o venganza por actividades previas de derechos civiles en algún programa o actividad realizados o financiados por el USDA.

Las personas con discapacidades que necesiten medios alternativos para la comunicación de la información del programa (por ejemplo, sistema Braille, letras grandes, cintas de audio, lenguaje de señas americano, etc.), deben ponerse en contacto con la agencia (estatal o local) en la que solicitaron los beneficios. Las personas sordas, con dificultades de audición o discapacidades del habla pueden comunicarse con el USDA por medio del Federal Relay Service [Servicio Federal de Retransmisión] al (800) 877-8339. Además, la información del programa se puede proporcionar en otros idiomas.

Para presentar una denuncia de discriminación, complete el Formulario de Denuncia de Discriminación del Programa del USDA, (AD-3027) que está disponible en línea en: http://www.ascr.usda.gov/complaint_filing_cust.html y en cualquier oficina del USDA, o bien escriba una carta dirigida al USDA e incluya en la carta toda la información solicitada en el formulario. Para solicitar una copia del formulario de denuncia, llame al (866) 632-9992. Haga llegar su formulario lleno o carta al USDA por:

(1) correo: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;

(2) fax: (202) 690-7442; o

(3) correo electrónico: program.intake@usda.gov.

Esta institución es un proveedor que ofrece igualdad de oportunidades.
The non-discrimination statement **must be printed in its entirety** on all Program related documents that are produced for public information, public education or public distribution.

Program-related written materials must be provided to day care homes with the nondiscrimination statement and complaint-filing procedures included. Providers must supply these materials to all current and potential program participants.

**EXCEPTIONS:**

- When material is too small to permit the full nondiscrimination statement the material must include, in font size no smaller than the other text, the following statement: “This institution is an equal opportunity provider.” For example, a recipe given to a household as part of nutrition education.
- The nondiscrimination statement is not required to be printed on items such as cups, buttons, magnets, and pens that identify the Program when the size or configuration make it impractical.
- When advertising the Program through radio or television announcements the entire nondiscrimination statement does not have to be read, rather a statement such as “The (name of CE or day care home) is an equal opportunity provider” is sufficient.
- The entire nondiscrimination statement does not have to be included on every page of a CEs Program information website; at minimum the nondiscrimination statement or a link to the statement must be included on the CE’s home page.

**NOTE:** When human likenesses are used in Program materials, reasonable efforts must be made to depict an ethnic balance.

### 6130 Data Collection and Maintenance

CEs must determine the number of actual beneficiaries by both racial and ethnic category currently enrolled in the program, annually. CEs must also determine the estimated number of potentially eligible beneficiaries by both racial and ethnic categories, annually. To determine the number of potentially eligible beneficiaries CEs can obtain information from many different resources such as comparative enrollment in other sites, schools, census data, local Chamber of Commerce, and local minority and grass roots organizations.
Racial/ethnic categories include the following:

**Ethnicity**

(1) *Hispanic or Latino.* A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term “Spanish origin” can be used in addition to “Hispanic or Latino.”

(2) *Not Hispanic or Latino.*

**Race**

(1) *American Indian or Alaskan Native.* A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.

(2) *Asian.* A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

(3) *Black or African American.* A person having origins in any of the black racial group of Africa. Terms such as “Haitian” can be used in addition to “Black or African American.”

(4) *Native Hawaiian or Other Pacific Islander.* A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

(5) *White.* A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

Parents/guardians/children must be given the option to first indicate ethnicity followed by race. Children of multiple racial categories may be categorized in more than one racial group.

**EXAMPLE:**

<table>
<thead>
<tr>
<th>Name</th>
<th>Ethnicity</th>
<th>Race</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Hispanic or Latino</td>
<td>Not Hispanic or Latino</td>
</tr>
<tr>
<td>Jane Doe</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>John Doe</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Justin Doe</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Julie Doe</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Joe Doe</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>
Parents/guardians/children are not required to provide this information, but if it is provided the CE or site may not “second guess” or change the racial or ethnic categories chosen. The CE or site will use visual observation to record the data if it is not provided.

After collecting this data, CEs must:

- Maintain the original data by individual day care home with documentation of the sources and methods by which it was obtained; and
- Maintain the data and relevant documentation according to the record keeping requirements described in Item 4500, Program Documentation; and
- Establish safeguards to protect the confidentiality of the data.

6140 Administrative and Provider Reviews

Reviews help to ensure that civil rights requirements are fulfilled at each level of Program administration, including the application approval process and the federal and state monitoring efforts.

F&N will determine whether a CE and providers comply with civil rights requirements before approving an application to participate. Compliance is determined by examining the Pre-Award Compliance Review form submitted with the initial application, as well as by observation during the visit prior to approval. During administrative and provider reviews, F&N will also evaluate compliance with civil rights requirements.

A sponsor must determine a provider’s compliance with civil rights during its pre-approval visit and during each of its required reviews of its providers.

6150 Training

A CE must complete Civil Rights training prior to Program participation and annually thereafter. In addition, CEs must ensure that all staff that performs key CACFP activities and all providers are trained in civil rights requirements prior to Program participation and annually thereafter.

To meet the Civil Rights training requirements, CEs may use the training developed by TDA located on the TDA website at http://www.squaremeals.org, select:
- F&N Resources,
- Training,
- Online Education and Self Study,
- CACFP Courses,
- Civil Rights Courses.
6160 Complaints

CEs and providers must have procedures for processing complaints. The CE’s staff and providers must be able to provide documentation of the procedures and an explanation of the complaint process.

Any person or representative alleging discrimination based on a prohibited basis has the right to file a complaint within 180 days of the alleged discriminatory action. Complaints can be written or verbal. If the complainant makes a verbal complaint, the person to whom the allegation is made must write up the elements of the complaint and should make every effort to obtain the following information:

a. Name, address, and telephone number or other means of contacting the complainant,
b. The specific location and name of the organization or individual participating in the CACFP,
c. The nature of the incident or action that led to the complaint of discrimination,
d. The basis on which the complainant believes discrimination exists (race, color, national origin, age, disability or sex),
e. The names, telephone numbers, titles, and business or personal address of persons that may have knowledge of the alleged discriminatory action, and
f. The date(s) during which the alleged discriminatory action(s) occurred or, if continuing, the duration of such action(s).

If a civil rights complaint is filed, with CE staff or with a provider, the CE must forward it to USDA immediately. CEs are also responsible for forwarding civil rights complaints filed with a provider to USDA.

The complaints should be sent to:

USDA Food and Nutrition Service
Attn: Regional Civil Rights Director
1100 Commerce St.
Dallas, Texas 75242

A courtesy copy should be sent to your Community Operations Field office.
6200  Section 504 of the Rehabilitation Act of 1973

6210  Program Accessibility

The Program, when viewed in its entirety, must be accessible to and usable by disabled persons, including persons with impaired vision or hearing. A CE is not required to make every part of existing day care homes physically accessible to disabled persons, but must ensure that the Program in those day care homes are accessible.

CEs and Providers must offer the most integrated setting possible to enable persons with disabilities to fully benefit from the Program.

If a provider cannot provide services to a person with disabilities because a part of a day care home where services are provided is not accessible, the CE and provider must

Inform the person with disabilities of alternate sites where they can receive services.

6220  Public Notification

CEs must have a public notification system to inform applicants, participants and potential participants of the Program availability, Program rights and responsibilities, the policy of nondiscrimination, and the procedure for filing a complaint. The public notification system must include the following three basic elements:

1. Program Availability. CEs must take specific action to inform applicants, participants, and potential participants of their Program rights and responsibilities.
2. Complaint Information. CEs must be advise applicants and participants of the right to file a complaint, how to file a complaint, and the complaint procedures.
3. Nondiscrimination Statement. CEs must ensure all information materials and sources, including websites, used to inform the public about the Program contain the nondiscrimination statement located in Item 6120, Public Notification.

Nondiscrimination Statement: CEs must ensure all information materials and sources, including websites, used to inform the public about the Program contain the nondiscrimination statement located in Item 6120, Public Notification.
6230 Employment

CEs are prohibited from discriminating against any qualified person based on a disability. Reasonable accommodations must be made for the known physical or mental limitations of an otherwise qualified applicant or employee with disabilities. CEs are not expected to make accommodations that impose an undue hardship on the operation of the program.

6240 Food Services

Each provider must serve special meals without additional charge to children with disabilities that restrict their diet. Refer to Items 4112.4, Meals for Children/Infants with Disabilities, and 4112.5, Meals for Children/Infants with Medical or Special Dietary Needs, for additional information related to meals for children with disabilities or special dietary needs.

6250 Designation of Section 504 Coordinator

CEs that employ 15 or more people must designate one or more persons to coordinate compliance with Section 504 regulations. An existing employee may be designated to perform this function.

6260 Complaint/Grievance Procedures

CEs that employ 15 or more people must maintain procedures to process complaints and grievances. Procedures that are required by a program other than the CACFP may satisfy this requirement if they comply with due process standards and provide for prompt and equitable resolution of complaints and grievances. Refer to Item 6160, Complaints, for minimum information to obtain.

6270 Self-Evaluation of Services

CEs must evaluate the quality and availability of their services to people with disabilities, and correct any inequitable policies or practices. The evaluation should be made with the assistance of people with disabilities or organizations that advocate for people with disabilities.

CEs must maintain a list of interested persons with whom it consulted, a description of the areas examined, the problems that were identified, and descriptions of modifications that were made.

CEs must retain the results of a self-evaluation study in accordance with CACFP record keeping requirements. Refer to Item 4500, Program Documentation, for additional guidance.
CEs must ensure that their day care homes are in compliance with all civil rights requirements.

6300  Americans With Disabilities Act

6310  Introduction

The Americans With Disabilities Act (ADA) became effective January 26, 1992. This act and Section 504 of The Rehabilitation Act of 1973 combine to prevent a wide range of discriminatory actions against disabled persons. The ADA, however, does not replace Section 504. The ADA applies to all persons and is not limited solely to persons who receive federal financial participation.

The ADA comprises the following subjects:

- Non-discriminatory practices
- Reasonable accommodation

The ADA applies to the following areas:

- Services
- Employment

6320  Services

When evaluating the services offered, the CE should consider the following questions:

- Can the person with disabilities get to the facility with reasonable ease?
- If the person can reach the location, can they enter the facility and access the specific location where services are provided?
- If they can access the location where services are provided, is there an accessible bathroom?
- If they can access the location where services are provided, are necessary accommodations made for their particular disability?
6330 Employment

In accordance with the ADA, CEs:

- Cannot discriminate against a person with a disability when hiring or promoting staff if the person is otherwise qualified for the job.
- Can inquire about a person's ability to perform a job, but cannot ask whether a person has a disability or subject a person to tests that screen out people with disabilities.
- Must provide "reasonable accommodation" to persons with disabilities, for example, job restructuring and modification of equipment.

NOTE: CEs are not required to provide accommodations that impose an undue hardship on their business.